THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 6858 OF 1997

DATED: 31-01-2007

Between:

P. Satyanarayana,
S/o. Somanna Dora,

… Petitioner

And

The Chairman,
Sri Visakha Grameena Bank,
Srikakulam, Srikakulam District
And another

… Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 6858 OF 1997

ORDER:

Heard the learned counsel for the petitioner and the learned counsel Ms. Uma, representing Sri Srinivasa Murthy, learned counsel for the respondent-Bank.

The petitioner assails the order of the first respondent dated 12-11-1996.

The petitioner was serving as a clerk-cum-cashier in Visakha Grameena Bank, since designated, as China Merangi Andhra Pragathi Visakha Grameena Bank at its China Merangi Branch, Vizianagaram District. On the basis of certain allegations, charges were framed in January 1996, but the petitioner denied the charges. An enquiry Officer was appointed and enquiry was conducted and without furnishing a copy of the enquiry report, the petitioner was visited with the punishment of demotion to the lower

cadre. Aggrieved thereby, the petitioner filed W.P.No.15374/1991 before this Court. By the judgment dated 05-12-1995, the writ petition was allowed. The order dated 17-08-1991 visiting the petitioner with the aforesaid penalty was quashed. The respondent management was however granted opportunity to proceed with the enquiry from the stage of furnishing a copy of the enquiry report. The petitioner was afforded an opportunity of submitting his representation, on which the respondent was directed to pass final orders within the stipulated time. With regard to the benefits due to the petitioner on account of the order of this Court, this Court observed that those benefits would be subject to the final orders that are to be passed by the respondent-Bank pursuant to a further process of enquiry.

On 01-12-1996, the petitioner submitted a representation on the penalty proposed, after receipt of the enquiry report. However, by the order of the disciplinary authority dated 16-03-1996, the petitioner was imposed with a penalty of "Degradation to Lower Stage with the Initial Starting Pay". Aggrieved thereby, the petitioner preferred an appeal dated 09-04-1996 to the first respondent. By the impugned order dated 12-11-1996, the first respondent disposed of the appeal as under:

> 'With reference to your appeal dated 09-04-1996 to the Board of Directors on the punishment imposed by the Chairman & Disciplinary authority communicated to you vide Lr.No.DP.553/95-96, dated 16-03-1996, we have to advise that the Board and appellate authority at their 129th Board Meeting held on 01-11-1996 after careful examination of your appeal is pleased to
>
> "MODIFY THE PUNISHMENT OF DEGRADATION TO LOWER STAGE WITH AN INITIAL STARTING PAY, TO STOPPAGE OF 5 (FIVE) INCREMENTS WITH

CUMULATIVE EFFECT."

Please acknowledge the receipt of this letter of on the duplicate hereof.'

The appeal dated 09-04-1996 preferred to the first respondent was an appellate remedy available to the petitioner under the relevant service regulations. The first respondent was therefore acting under regulated authority, which obligated application of mind and recording of reasons as to why the appellate conclusion was arrived at. The process of judicial review has been subverted by the first respondent by recording a wholly irrelevant and irrational order. The order merely states that the Board as the Appellate Authority, at the 129th Board Meeting held on 01-11-1996 after careful examination of the appeal has modified the punishment to one of the stoppage of 5 increments with cumulative effect. There is nothing in the order that discloses how the Authority applied the appellate mind to the appeal grounds or to the order of the primary disciplinary authority. Whether the petitioner's guilt as found by the disciplinary authority is confirmed and for what reason, and if so, whether the modification is done on the parameters of proportionality of punishment, has also not been dealt with in the appellate order. The appellate order is wholly indisciplined and cannot be sustained.

On the aforesaid analysis, the order of the first respondent dated 12-11-1996 bearing reference No.RC DP 130 is quashed. The first respondent shall now reconsider and dispose of the appeal of the petitioner dated 09-04-1996 and shall pass a reasoned order dealing with the several appellate propositions submitted by the petitioner in his appeal dated 09-04-1996. The reasoned decision of the first respondent-Appellate Authority shall be communicated to the petitioner within a period of thirty (30)

days from the date of receipt of a copy of this order.

Writ petition is allowed accordingly. No costs.

_____

GODA RAGHURAM, J.

Dt: 31-01-2007
Rns